

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14335, of Jewell Brown, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the rear yard requirements (Sub-section 3304.1) for an addition of a deck in an R-4 District at premises 1780 Hobart Street, N.W., (Square 2588, Lot 124).

HEARING DATE: September 25, 1985

DECISION DATE: September 25, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the west side of Hobart Street near it's southwest intersection with Irving Street. It is known as premises 1780 Hobart Street, N.W., and is in an R-4 District.

2. The subject site is irregularly shaped with a frontage of 22.69 feet along Hobart Street. The north side of the property has a frontage of 95.35 feet along a fifteen foot wide public alley. The rear, or west, of the site has frontages of 7.07 feet and thirteen feet at the intersection of the two fifteen foot wide public alleys which cut through the Square, one running north-south and one running east-west. The south property line of the subject site measures 86.53 feet.

3. The subject property is improved with a single family semi-detached, brick, two and a half story dwelling which was constructed prior to May 12, 1958, the effective date of the Zoning Regulations, at which time the structure became non-complying.

4. The R-4 District extends in all directions from the subject site. The surrounding area is predominantly developed with row dwellings. On the opposite side of the alley, to the southwest of the subject site, as the Harvard Street apartments which are residential units for the elderly.

5. The applicant is seeking a variance in accordance with Sub-section 8207.11 of the Zoning Regulations to allow the applicant to obtain building permits for the addition of a deck to the rear of the subject structure. The addition creates a set back of 13.3 feet from the rear property line to structure instead of the twenty feet required by Section 3304.1 of the Zoning Regulations. The variance sought is

for 6.7 feet or 33.5 percent of the length of the rear yard required.

6. Paragraph 8207.11 empowers the BZA to grant an area variance by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to the owner of such property provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and map.

7. The deck was constructed by the applicant, who owns and occupies the subject structure, in June and July of 1984, without a building permit.

8. An original porch and steps, which were dilapidated, were removed before the subject deck was constructed.

9. The subject deck extends from the second floor of the rear of the house. As a security measure, the deck does not have steps leading to the ground level. The applicant testified that on three occasions in the past, her home had been burglarized. The deck measures fourteen feet two inches at its deepest point and twelve feet three inches at its widest point.

10. The deck now extends to the point where the steps of the old structure ended.

11. One parking lot for the aforementioned Harvard Street apartment complex is accessible only by the alley which is adjacent to the subject site. The parking lot generates much traffic. The parking for many of the homes on Harvard and Hobart Streets is located at the rear of their lots accessible by the alley. Thus, the subject rear yard is surrounded on three sides by heavily travelled alleys.

12. The applicant constructed the deck as a space to enjoy outdoor activities since the patio at the ground level of the rear yard is subject to noise and traffic fumes.

13. Advisory Neighborhood Commission (ANC) 1E reported by letter dated September 10, 1985, that it unanimously passed a motion to support the subject application. The ANC reported that the subject rear deck was in harmony with other rear decks in the area and that the ANC had received no complaints from the neighbors. The Board concurs with the ANC recommendation.

14. Numerous owners and/or residents of property adjacent to the subject site submitted letters to the record in support of the application. They stated that the deck is an attractive addition to the neighborhood and does not impact negatively on the surrounding area in anyway.

15. A petition, dated September 20, 1985, containing the signatures of fifteen neighbors in favor of the subject application was submitted to the record.

16. There was no opposition to the application at the public hearing at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent of the zone plan.

The Board concludes that the applicant has met the burden of proof. The subject lot is unique in being surrounded on three sides by public alleys which affect the subject site. The traffic and accompanying noise that is generated by the alleys make the use of the ground level of the rear yard unsuitable for recreational activities. The second story deck provides the desired outdoor recreation space buffered from the fumes and noise of traffic. The Board also concludes that the deck does not extend farther than the original deck and steps which were replaced. The Board further concludes that granting the proposed relief will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. Accordingly, it is hereby ORDERED that the application is GRANTED.

VOTE: 3-0 (Patricia N. Mathews, William F. McIntosh, Charles R. Norris to approve; Carrie L. Thornhill and Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


CECIL B. TUCKER

Acting Executive Director

FINAL DATE OF ORDER: 17 JAN 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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